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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/822,941

04/13/2004

Bradley Emalfarb

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07/16/2007

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER

500 W. MADISON STREET

SUITE 3800

CHICAGO, IL 60661

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1761

MAIL DATE

DELIVERY MODE

07/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,941	Applicant(s) EMALFARB, BRADLEY	
	Examiner Steven L. Weinstein	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-20, drawn to an alcoholic beverage in a container, classified in class 426, subclass 87.
- II. Claim 21, drawn to a method of monitoring the dispensing of an alcoholic beverage, classified in class 702.

The inventions are independent or distinct, each from the other because the alcoholic beverage container claimed in Group I can be used in methods other than that claimed in Group II. For example, the alcoholic beverage container can be used just to store the beverage without any monitoring of the dispensing.

Because these inventions are independent or distinct for the reasons given above, and have acquired a separate status in the art, requiring separate searches, as shown by their different classification, restriction for examination purposes as indicated is proper.

Also, if Group I is elected, the following Election of species is also required.

This application contains claims directed to the following patentably distinct species and subspecies:

Species A, wherein the closure system envelops the container,

Species B, wherein the closure system does not envelope the container.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species A or B for prosecution on the merits to which the claims shall be restricted if no generic claim

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is finally held to be allowable. Currently, no claim appears to be generic to all of the species.

In addition each of Species A and B have subspecies as follows and an election of one of the following subspecies is required:

If species A above is elected, then an election of one of the following further subspecies of closure system is to be elected.

Either Subspecies A1, wherein the enveloping closure system is a bag, or

Subspecies A2, wherein the enveloping closure system is a self-supporting container (such as a box) with a hinge.

In addition, if subspecies A1 is elected, then an election of one of the following further subspecies of closure system is to be elected.

Either Subspecies A1a, wherein the wall parts are connected through a bond, or

Subspecies A1b, wherein the wall parts are connected through a flexible element, or

Subspecies A1c, wherein the wall parts are connected through a molded element, or

Subspecies A1d, wherein the wall parts are snap connected, or

Subspecies A1e, wherein the wall parts are connected through a fastener.

If species B above is elected, then an election of one of the following further subspecies of closure system is to be elected.

Either Subspecies B1, wherein the system includes an element between the cork and wall, or

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Subspecies B2, wherein the system includes a cap that separates.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday-Friday 7:00 A.M.-2:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steve Weinstein
STEVE WEINSTEIN
PRIMARY EXAMINER 7/7/07
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